

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DAVID PESQUERA AND JENNIEY PESQUERA,

Plaintiffs,

V.

**ALLSTATE VEHICLE AND PROPERTY
INSURANCE COMPANY**

Defendant.

S

CIVIL ACTION NO. 4:17-cv-00098

ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY'S
NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§1441 and 1446, Defendant, ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY, files this its Notice of Removal to the United States District Court for the Southern District of Texas, Houston Division, on the basis of diversity of citizenship and amount in controversy, and respectfully shows the following.

I. FACTUAL BACKGROUND

1. On or about November 30, 2016, Plaintiffs filed their Original Petition in a case styled *David Pesquera and Jenniey Pesquera v. Allstate Vehicle and Property Insurance Company*, Cause No. 2016-82372, pending in the 215th Judicial District Court for Harris County, Texas.

2. CT Corporation received service of the Original Petition on or about December 15, 2016 for Allstate Vehicle and Property Insurance Company. In response, Allstate Vehicle and Property Insurance Company filed its Original Answer to Plaintiffs' Original Petition on January 6, 2017.

3. Allstate Vehicle and Property Insurance Company files this notice of removal within 30 days of receiving service of Plaintiffs' pleading. *See* 28 U.S.C. §1446(b).

4. Attached hereto are copies of the following documents:

- **Exhibit 1:** The state court's Docket Sheet;
- **Exhibit 2:** Plaintiffs' Original Petition;
- **Exhibit 3:** Citation served on Allstate Vehicle and Property Insurance Company;
- **Exhibit 4:** Allstate Vehicle and Property Insurance Company's Original Answer to Plaintiffs' Original Petition;
- **Exhibit 5:** List of Parties and Counsel

II. BASIS FOR REMOVAL

5. Removal is proper based upon diversity of citizenship under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446.

A. Plaintiffs and Allstate Vehicle and Property Insurance Company Are Diverse

6. Upon information and belief, Plaintiffs, David and Jenniey Pesquera, were residents of the State of Texas at the time the lawsuit was filed. *See* Plaintiffs' Original Petition, ¶ 2.1.

7. Defendant, Allstate Vehicle and Property Insurance Company, is incorporated under the laws of the State of Illinois. Additionally, its principal place of business is in Illinois.

B. The Amount in Controversy Exceeds the Jurisdictional Requirements for Subject Matter Jurisdiction

8. As alleged in Plaintiffs' Original Petition, Plaintiffs seek monetary relief over \$100,000. Therefore, the amount in controversy exceeds the jurisdictional requirements for removal. (Refer to Plaintiffs' Original Petition, ¶ 1.1 and 9.1)

III.
THE REMOVAL IS PROCEDURALLY CORRECT

9. Allstate Vehicle and Property Insurance Company received this lawsuit on December 15, 2016, when service was perfected upon it through CT Corporation. Thus, Allstate Vehicle and Property Insurance Company is filing this Notice within the 30-day period required by 28 U.S.C. § 1446(b).

10. Venue is proper in this District and Division under 28 U.S.C. §1446(a) because i) this District and Division include the county in which the state action has been pending, and ii) a substantial part of the events giving rise to Plaintiffs' claims allegedly occurred in this District and Division.

11. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

12. Promptly after Allstate Vehicle and Property Insurance Company files this Notice of Removal, written notice of the filing will be given to Plaintiffs pursuant to 28 U.S.C. §1446(d).

13. Promptly after Allstate Vehicle and Property Insurance Company files this Notice of Removal, a true and correct copy of same will be filed with the Clerk of the Harris County District Court pursuant to 28 U.S.C. §1446(d).

IV.
CONCLUSION

14. Based upon the foregoing, the exhibits submitted in support of this removal, and other documents filed contemporaneously with this Notice of Removal, Allstate Vehicle and Property Insurance Company hereby removes this case to this Court for trial and determination.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: /s/ Christina M. Fears

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**ATTORNEYS FOR DEFENDANT -
ALLSTATE VEHICLE AND PROPERTY
INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 13, 2017, a true and correct copy of the foregoing instrument was delivered to all known counsel of record in accordance with the Federal Rules of Civil Procedure, and any applicable Local Rules, as follows:

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Counsel for Plaintiffs

/s/ Christina M. Fears

CHRISTINA M. FEARS